

SOLANO COUNTY GRAND JURY



SOLANO COUNTY TOWING POLICIES **“To Tow or Not to Tow”**



2004-2005 Grand Jury Report

Issued: March 1, 2005

SOLANO COUNTY TOWING POLICIES 2004-2005 Grand Jury Report

I. Reason for Investigation

A resident of the county made a formal complaint to the Grand Jury regarding charges incurred when his/her vehicle was towed following a car stop made by a city police agency. The resident questioned why it was necessary to tow the car when another member of the family was available to come to the scene and drive the vehicle to their residence. This complaint resulted in a decision of the Grand Jury to examine all towing policies in the County to determine if residents are being protected from unnecessary towing and storage charges either by officer decisions at the scene or from towing firms.

II. Procedure

The Grand Jury:

- Reviewed written towing policies submitted by all police agencies serving Solano County to include:

Benicia Police Department
Dixon Police Department
Fairfield Police Department
Suisun City Police Department
Rio Vista Police Department
Vacaville Police Department
Vallejo Police Department
California Highway Patrol
Solano County Sheriff/Coroner's Office

III. Investigation, Findings and Recommendations

The California Vehicle Code contains lengthy regulations regarding the towing, impounding and storage of vehicles and §22852 requires the police agency to mail a copy of the storage form to the legal and registered owners within 48 hours of storage, not including weekends. Under state law, the decision to tow a vehicle appears to be left up to the discretion of the individual officer at the scene. Because of this discretion given to officers, the Grand Jury believes that law enforcement agencies should develop written policies regarding towing and storage of vehicles as guidance for police officers while also protecting members of the public from overzealous officers and towing companies. In the same vein, contracts with towing companies help to protect the public by specifying acceptable fees so that the public is not subjected to excessive charges by towing companies that might be tempted to take advantage of a citizen in an emergency situation.

Benicia

The Department has contacts with the five towing companies in its area of service and they are called on a rotating basis. Contracts with the five towing companies clearly

state that “towing fees shall be reasonable and not in excess of those rates made for similar services provided in response to requests initiated by any other public agency or person. Towing fees over and above normal rates shall not be permitted for response to calls originating from the Benicia Police Department.”

Finding #1 – The Benicia Police Department does not have a written policy determining when vehicles should be towed.

Recommendation #1 – The City of Benicia adopt towing policies and procedures.

Dixon

The Dixon Police Department does not contract with towing companies but rotates towing services with the two firms in the community. Under its towing policy, the owner/driver of a disabled vehicle may select any towing firm to remove the vehicle from the accident scene or designate “no preference” in which case the proper rotating firm will be called. The policy provides for establishment of an informal Vehicle Impound Hearing to be called if the registered or legal owner desires to object to the storage or impounding of a vehicle. If the decision is made that the storage was improper, the department will reimburse the towing and storage fees.

Finding #2 – The Dixon Police Department’s towing policy would seem to be written in such a manner as to protect citizens from unnecessary towing or storage charges and provides for a hearing in the event towing decisions are disputed.

Recommendation #2 – None.

Fairfield

The Fairfield Police Department has a well documented and clearly stated towing policy which spells out:

- Exactly under what circumstances a vehicle is to be towed
- What procedures are to be followed with regard to proper storage of the vehicle
- The procedures for inventorying and protection of any personal property left in the vehicle
- The procedure for holding an administrative hearing if a protest is made regarding the decision to tow and store private vehicle.

Charges for towing and storage of vehicles is provided in the contract with the towing companies, as well as amounts of insurance to be carried; capacity of trucks for various size jobs; maintenance of drivers’ records, criminal history check and professional performance and appearance and time allowable for arrival at a tow scene. All tow companies on the department’s rotating calling schedule must attend a yearly meeting to discuss issues and problems that may have arisen since the previous meeting.

Finding # 3 – The Fairfield Police Department has complete and exhaustive documentation covering all aspects of its rules and regulations relating to vehicle towing situations and its contracts with private towing companies.

Recommendation # 3 – None.

Rio Vista

The Rio Vista Police Department's towing policy is an abbreviated document but it seems to provide procedures for most circumstances. The department has no contracts with towing companies in the community. In the event of a collision which disables a vehicle, the owner or driver may select a tow company or tell the officer he or she has no preference, in which case the towing agency will be selected from a rotating list. If the driver is incapacitated, the dispatcher will call the designated towing company for the City. In the event of an arrest, officers retain the discretion not to tow and store the vehicle if the arrest is a cite-and-release offense or in situations where the vehicle was not used to further the offense for which the driver was arrested. The department has in place a hearing process in the event the registered owner protests the validity of a decision to tow or impound a vehicle.

Finding #4 – The Rio Vista Police Department does not contract with towing companies.

Recommendations # 4 – The Department's existing policy should include a method of monitoring charges for towing and storage. The City's towing policy should be revised to show allowable charges and they should be made part of a towing contract with local companies.

Solano County Sheriff's Office

The Solano County Sheriff's Office utilizes General Order 6.021 which defines the policy and procedures for the towing and storage of vehicles. The department does not contract with individual tow companies but maintains a rotational list of towing companies by geographical area. The majority of the vehicles ordered towed by deputies are for driving with a suspended license, or driving under the influence of an intoxicating substance. Disabled or abandoned vehicles on highways or on county roadways are handled by the California Highway Patrol.

Finding # 5 - The Solano County Sheriff's Department does not contract with towing companies.

Recommendation #5 – The Department's existing policy should include a method of monitoring charges for towing and storage. The County's towing policy should be revised to show allowable charges and they should be made part of a towing contract with local companies.

City of Suisun City

The City of Suisun City Police Department does not have a separate written policy for towing and storage of vehicles but handles the majority of its tows under provisions of the California Vehicle Code. It also utilizes sections of the City of Suisun City Municipal Code for towing of vehicles from public parking facilities, or abandoned, wrecked, dismantled or inoperative vehicles.

Finding #6 – The City of Suisun City Police Department does not have a written policy determining when vehicles should be towed.

Recommendation #6 – The City Council should adopt towing policies and procedures.

Vacaville

The Vacaville Police Department has both a towing policy and towing contract. The contract specifically forbids “collusion” between towing companies to establish artificially high rates for services that would prove harmful to the public or other towing companies. Among the towing policy provisions are requirements for an annual driver’s permit, which determines the applicant’s fitness and ability to perform duties of a tow truck driver, the wearing of neat logo clothing and submission of a “reasonable” fee schedule for services and storage. There are provisions for insurance coverage, annual inspections of equipment, regulations regarding demeanor and conduct and a mandatory annual meeting between the department and towing companies.

Finding #7 – The City of Vacaville Police Department’s towing contract is an excellent document that assures the public is protected from excessive towing fees and storage fees.

Recommendation #7 – None.

Vallejo

The Vallejo Police Department has established a written policy for towing and storage of motor vehicles that also includes motor-driven cycles, motorized bicycles and mopeds. Key provisions state that a reasonable effort will be made to locate a vehicle’s owner to eliminate unnecessary tows, allows an owner to give preference for a specific towing company and for the department to pay for any vehicles erroneously towed or stored. The towing contract with individual companies spells out contract rates, licensing and insurance requirements, forbids “collusion” between owners and mandates professional standards for tow truck drivers.

Finding #8 – The City of Vallejo Police Department’s towing policy and towing contract are comprehensive documents that assure the public is protected from excessive towing fees and storage fees.

Recommendation #8 – None.

California Highway Patrol

The California Highway Patrol has a comprehensive towing and storage policy. Procedures and charges are clearly spelled out in the agency’s towing contract.

Finding #9 - The California Highway Patrol’s towing policy and towing contract are documents that protect the public from excessive towing fees and storage fees.

Recommendation #9 – None.

Grand Jury Recommendation For All Agencies

Finding #10- Without exception, hearings on disputed towing and storage charges are conducted by members of the staffs of the various Solano County law enforcement departments.

Recommendation #10 – The California Vehicle Code Section 40215 (4)(A) specifies that hearing officers or examiners in parking enforcement “shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement, parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation collection or processing function.” In the spirit of this law, the Grand Jury recommends all agencies appoint independent hearing officers to rule on towing and storage disputes following the excellent model for parking enforcement.

IV. Affected Agencies

- City of Benicia
- Benicia Police Department
- City of Dixon
- Dixon Police Department
- City of Fairfield
- Fairfield Police Department
- City of Rio Vista
- Rio Vista Police Department
- City of Suisun City
- City of Suisun City Police Department
- City of Vacaville
- Vacaville Police Department
- City of Vallejo
- Vallejo Police Department
- Solano County Sheriff/Coroner’s Office
- California Highway Patrol